

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THOMAS POWER,  
*Plaintiff,*

Civil Division  
Docket No. 2:17-CV-00154-MRH

v.

HEWLETT-PACKARD COMPANY,  
*Defendant.*

Hon. Mark R. Hornak  
Friday, May 13, 2022

**MOTION FOR SUMMARY JUDGMENT**

The plaintiff, Thomas Power, has no evidence to support his three claims of product liability arising under [1] strict liability; [2] negligence; or [3] breach of warranty, and therefore cannot establish a prima facie case under these doctrines. Expert evidence is required to establish [1] the HP Elitebook 8730w notebook was defective under a failure to warn, [2] a causal relationship between the claimed warning defect and injury, and [3] attribution of injury causation concerning his claimed incontinence. As set forth in the motions to exclude the testimony of Kenneth Kutchek, PE, William Kitzes, JD, and Michael Drew, MD, filed herewith, ECF Nos. 139, 141, 142, the plaintiff's expert witnesses are unqualified, unreliable, and offer irrelevant opinions that will not assist the trier of fact. As their reports and testimony are inadmissible, the plaintiff's claims fail, and summary judgment should enter against him.

Further, even if the experts' reports were admitted, the record reflects that: [1] HP gave multiple warnings to only use HP-approved battery packs with the Elitebook 8730W notebook; [2] there is no evidence plaintiff would have avoided the risk of his injury had he received a different battery authentication warning; and [3] there is no evidence the June 20, 2015 incident that is the subject of this lawsuit caused his incontinence.

Accordingly, under Rule 56 of the Federal Rules of Civil Procedure, the Defendant HP, Inc., improperly named as Hewlett-Packard Company, ("HP") hereby moves for summary

judgment against the plaintiff, Thomas Power, with respect to his operative three-count Complaint dated January 18, 2017, Doc. 1-2, in its entirety. Summary judgment should enter for HP on the plaintiff's Complaint.

/s/ Michael A. Weiner

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Attorneys for HP, Inc.

### **Certificate of Service**

I hereby certify that on May 13, 2022, a true and accurate copy of the foregoing was served via the Court's Electronic Case Filing System to all counsel of record.

/s/ Michael A. Weiner  
Michael A. Weiner